

Memorandum

Date : November 5, 1999

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To : Robert A. Laurie, Presiding Member
William J. Keese, Associate Member

From : **California Energy Commission** - Paul Richins, Jr.
1516 Ninth Street California Energy Commission Project Manager
Sacramento, CA 95814-5512

Subject : **METCALF ENERGY CENTER APPLICATION FOR CERTIFICATION REVIEW - STATUS
REPORT #3**

Status Report #3, due November 5, 1999, is provided in accordance with the Committee Scheduling Order dated July 19, 1999.

DATA REQUESTS, DATA RESPONSES AND AFC SUPPLEMENTS

Calpine/Betchel is in the process of answering the last remaining data requests filed by Energy Commission staff on September 24, 1999. Calpine/Bechtel anticipates completing their responses by November 12, 1999 except for the one requiring groundwater testing. No date for completing this data request has been provided by Calpine/Bechtel.

On October 1, and October 15, 1999 Calpine/Bechtel amended the project with AFC Supplement A and Supplement B. Staff is reviewing these significant changes and will have additional data requests related to these project changes as well as follow-up data requests on the data responses previously provided. We expect to file our third set of data requests by the middle of November.

RECENT AND UPCOMING EVENTS/ACTIVITIES:

Staff attended the District 2 Metcalf Energy Center Community Advisory Group Meeting in San Jose on October 14, 1999. Visual resources was the topic of discussion with Calpine/Bechtel making a presentation on the changes to the visual treatment proposed in AFC Supplement B. The November Community Advisory Group Meeting scheduled for November 17, 1999, has been cancelled.

Staff conducted a biological resources workshop on October 27, 1999 to discuss and receive input from local, state and federal agencies, intervenors and the public. Specific topics covered included Tulare Hill impacts, Tulare Hill Management Plan, NO_x emission impacts on Tulare Hill and surrounding regions and the affects on the Checkerspot butterfly, Fisher Creek Riparian Corridor and the Biotic assessment. The workshop was well attended and much was accomplished with staff receiving valuable information from those in attendance.

Future staff workshops are anticipated covering alternative sites, air quality and, possibly, water resources.

STATUS OF STAFF ANALYSIS AND SCHEDULING CONCERNS:

- 1) Determination of Compliance (DOC) - The Bay Area Air Quality Management District (BAAQMD), under its Rule 2-3-403, is required to submit a preliminary determination of compliance (PDOC) within 180 days after the District deems the application complete. The Committee's scheduling order requested the PDOC to be filed by October 25, 1999. However, with the significant changes contained in AFC Supplement A and B, the BAAQMD will need additional time to complete their air quality analysis. A further complication is that the air quality model used by Calpine/Bechtel for AFC Supplement B was a model not yet approved by the U.S. E.P.A. On November 4, 1999, the BAAQMD notified Calpine/Betchel that the material they provided was incomplete. According to recent contacts with the BAAQMD, it is our understanding that this will cause a significant delay in the issuance of the PDOC. The BAAQMD indicated that it will take them about two months to complete their review once the new modeling data is provided. Calpine/Bechtel is resubmitting the required data using an approved model later this month.
- 2) Cal-ISO Approval – The Cal-ISO completed its preliminary comments on PG&E's facilities study (electrical transmission lines) and requested additional analysis. This analysis is expected by December 31, 1999. The Cal-ISO review of these additional studies will take approximately three weeks.
- 3) Biological Resource Consultation -- As a result of the biological resources workshop, it was learned that US Fish and Wildlife Services may need to be consulted formally (135 day process) or informally regarding the impacts to the Checkerspot butterfly. This issue is still being reviewed by all the parties to determine if such a consultation is necessary.
- 4) Land Use/Biological Resources -- On September 28, 1999 the City of San Jose notified Calpine/Bechtel of the City's initial concerns regarding the applications for pre-zoning/rezoning and annexation. The letter identifies several issues of concern, such as site access and compliance with the City's riparian corridor policies, and requests that Calpine/Bechtel resubmit plans to the City which provide alternate site access and maintain the required 100-foot setback from the Fisher Creek riparian corridor. The City of San Jose also deemed the land-use applications incomplete, and requested that Calpine/Bechtel submit additional information. The City and Calpine/Bechtel met on October 18, 1999 to discuss the concerns raised by the City. To date, the City of San Jose has not received the information requested from the applicant.
- 5) Memorandum of Understanding – The City of San Jose is reviewing the draft memorandum of understanding. It is unknown when they expect to complete their review.

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- 6) Scheduling Conference – The Committee has scheduled a Status Conference for November 23, 1999. Commission staff will have additional information on timing of the various key milestones noted above at that time.

Please let me know if you have any questions or comments.

cc: Proof of Service 99-AFC-3
Laurel Prevetti, City of San Jose
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Matt Haber, US EPA
Steve Mavis, Cal-ISO